

Richard A. Devers
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UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

-----X)	
In re)	Chapter 11
)	Case No. 05-44481 (RDD)
DELPHI CORPORATION, et al.,)	(Jointly Administered)
)	Hon. Robert D. Drain
)	
-----X		

DECLARATION OF RICHARD A. DEVERS IN SUPPORT
OF DELPHI SALARIED RETIREES ASSOCIATION REPLY IN SUPPORT OF
EXPEDITED MOTION FOR STAY PENDING APPEAL
(DOCKET # 16468)

I, Richard A. Devers, declare as follows:

1. I submit this declaration in support of granting a stay of the Court's Order declining to appoint an official committee pursuant to section 1111(d) of the Bankruptcy Code, 11 U.S.C. § 1114(d), and allowing the Debtors to terminate all subsidies for amendable retiree benefit plans and programs without complying with Section 1114(e).
2. Without proper representation, it is impossible for an individual retiree to keep up with the proceedings of this court. The document filed as Docket # 11182, shows then number of attorneys and law clerks and paraprofessionals working on this case from only one of several law firms representing the Debtor. The following is "cut and pasted" from that document:

TIME SUMMARY TO SIXTH INTERIM FEE APPLICATION OF
SKADDEN, ARPS, SLATE, MEAGHER & FLOM LLP
JUNE 1, 2007 – SEPTEMBER 30, 2007

Name	Year Of Admission	Rate ²	Hours	Amount
PARTNERS				
Butler, Jr., John (Jack) Wm.	1980	\$801	1,187.5	\$950,661
Cochran, Eric L.	1987	\$845	750.0	\$633,755
Hogan, III, Albert L.	1997	\$668	807.6	\$539,780
Marafioti, Kayalyn A.	1980	\$830	639.2	\$530,536
Panagakos, George N.	1990	\$766	670.4	\$513,379
Lyons, John K.	1989	\$706	670.6	\$473,685
Meisler, Ron E.	1999	\$606	776.2	\$470,705
Furfaro, John P.	1981	\$810	272.6	\$220,806
Hiestand, N. Lynn	1981	\$816	190.8	\$155,620
Berlin, Kenneth	1974	\$810	131.2	\$106,272
Berke, Jay S.	1972	\$810	107.1	\$86,751
Gross, Cliff	1989	\$830	87.0	\$72,210
Leff, Neil M.	1981	\$830	70.7	\$58,681
Frishman, Lawrence D.	1989	\$810	24.6	\$19,926
Saggese, Nick P.	1980	\$875	14.1	\$12,338
Brewster, Jody J.	1983	\$775	13.8	\$10,695
Noel, Gregg A.	1982	\$845	11.0	\$9,296
Partner Total		\$757	6,424.4	\$4,865,096
COUNSEL				
Matz, Thomas J.	1976	\$625	779.1	\$486,949
Ramlo, Kurt	1993	\$620	692.4	\$429,633
MacDonald, F. Neil	1997	\$570	382.7	\$218,130
Garner, Lee P.	1995	\$609	201.6	\$122,875
Gasaway, Michelle	1998	\$625	177.5	\$110,940
Amodeo, John A.	1977	\$625	106.6	\$66,626
Sensenbrenner, Eric B.	1996	\$625	81.9	\$51,189
Ko, Jonathan B.	1998	\$595	19.3	\$11,484
Schneider, David A.	1986	\$595	12.3	\$7,319
Daniels, Steven J.	1996	\$595	11.5	\$6,843
Counsel Total		\$613	2,464.9	\$1,511,988

Name	Year Of Admission	Rate ²	Hours	Amount
ASSOCIATES				
Ganitsky, Daniel I.	2001	\$585	868.1	\$507,841
Hardin, Adlai S.	1998	\$585	857.2	\$501,467
Wharton, Joseph N.	1998	\$528	928.1	\$490,030
Stuart, Nathan L.	2002	\$480	1,019.2	\$488,817
Fern, Brian M.	1996	\$556	824.5	\$458,105
Connors, Christopher P.	1999	\$574	699.8	\$401,487
Ogunsanya, Gregory O.	2004	\$495	738.0	\$365,311
Grant, T. Kellan	2000	\$467	720.5	\$336,144
Campanario, Nick D.	2002	\$523	633.7	\$331,178
Diaz, Lisa B.	2006	\$360	884.6	\$318,280
Hill, Laverne F.	2005	\$388	806.5	\$312,722
Houston, Brent M.	2003	\$435	697.2	\$303,287
Perl, Michael W.	2004	\$427	704.5	\$300,611
Howe, Eric J.	2005	\$380	742.2	\$282,283
Samole, Rena M.	2000	\$562	499.8	\$280,898
Herriott, Allison V.	2004	\$435	615.4	\$267,707
Gartner, Matthew	2006	\$353	749.3	\$264,530
Halper, Adam	2005	\$390	671.7	\$261,963
Platt, Sarah J.	2006	\$353	687.7	\$242,697
Kohut, Ronald D.	2004	\$470	502.9	\$236,363
Kaloudis, Denise	2003	\$495	464.3	\$229,830
Van Gelder, Amy	2003	\$452	432.4	\$195,498
Kahn, Melissa T.	2003	\$470	408.7	\$192,089
Bolton, Ian S.	2005	\$379	498.4	\$188,742
Suber, Karen M.	2007	\$355	388.2	\$137,815
Guzzardo, John	2004	\$435	272.9	\$118,715
Feinberg, Aaron S.	2002	\$535	195.8	\$104,754
Park, Young M.	2001	\$542	133.5	\$72,349
De Elizalde, Dolores	2003	\$495	126.0	\$62,370
Arkuss, Brett	2007	\$355	165.8	\$58,860
Ketchens, Jason P.	2000	\$513	56.1	\$28,788
Pilkington, Christian	Foreign (1999)	\$585	48.6	\$28,432
Garcia, Kara R.	2003	\$495	56.7	\$28,067
Boden Adams, Julie	2005	\$435	54.3	\$23,621
Louko, Tero	2000	\$585	25.0	\$14,625
Duncomb, Brandon M.*	2007	\$315	45.8	\$14,427
Jjingo, M. Janine	2006	\$390	34.5	\$13,455
Schockett, Paul	2006	\$390	26.6	\$10,374
Belin, Rita Sinkfield	1996	\$585	17.7	\$10,355
Horstmann, Britta	2005	\$390	23.4	\$9,126
Tullson, Carl T.*	2007	\$315	26.9	\$8,474
Phillips, Karen E.	2001	\$495	13.8	\$6,831
Malone, Elizabeth A.	2002	\$495	12.4	\$6,138
Associate Total		\$463	18,378.7	\$8,515,456

Name	Year Of Admission	Rate ²	Hours	Amount
PARAPROFESSIONALS				
Demma, Jeffrey	N/A	\$250	579.7	\$144,925
Zsoldos, Andrew F.	N/A	\$190	580.2	\$110,238
Klimek, Marsha V.	N/A	\$250	262.4	\$65,600
Chavali, Aruna	N/A	\$160	387.2	\$61,952
Shrago, Rebecca	N/A	\$160	204.2	\$32,672
Worscheck, Toby M.	N/A	\$80	235.3	\$18,824
Rivera, Maira	N/A	\$80	153.2	\$12,256
Gilchrist, Julie M.	N/A	\$250	29.3	\$7,325
Roman, Joseph J.	N/A	\$80	72.0	\$5,760
Kim, Anne S.	N/A	\$160	31.1	\$4,976
Donnelly, Neal P.	N/A	\$225	21.4	\$4,816
Nowicki, John A.	N/A	\$250	18.1	\$4,525
Robinson, Susan J.	N/A	\$190	23.6	\$4,484
Bower, Julie	N/A	\$160	24.4	\$3,904
Woodfield, Joseph	N/A	\$160	24.3	\$3,888
Angelica, Christopher L.	N/A	\$160	23.5	\$3,760
Seacor, Kirsten L.	N/A	\$190	13.6	\$2,584
Zylich, A. Kaitlin	N/A	\$160	13.5	\$2,160
Paraprofessional Total		\$183	2,697.0	\$494,649
TOTAL ALL PROFESSIONALS			29,965.0	\$15,387,189
This summary excludes voluntary fee reductions of \$1,684,077, of which \$1,626,931 was reduced on the monthly statements and \$57,146 ³ is an additional accommodation made to this Interim Application.				

It is difficult to understand that Judge Drain and the Debtors really believe that the retirees do not need any representation in this matter.

3. The retirees have been at a time disadvantage right from the onset of this issue of Health Care and Life Insurance termination. The retirees were notified by a FedEx letter on February 5, 2009 that the Motion to terminate benefits had been filed by the Debtors on February 4, 2009. The Objection Deadline for this motion was set as February 17, 2009 and the Hearing Date was set as February 24, 2009. This was not adequate notice for the retirees to collect data and documents and prepare a proper Objection. Many objections were filed, but they objections were hurried due to time constraints.
4. The Debtors, on the other hand, had all the time they wanted or needed, as they were in control of the clock and they gave themselves a generous head start. In Mr. Miller's Declaration, Docket # 16421, he stated (item 24 in Mr. Miller's Declaration):

24. I and other members of the Delphi Strategy Board discussed the proposed termination of salaried OPEB at several meetings and received a detailed presentation regarding cost savings to be realized from terminating Salaried OPEB and the impact of such termination on retirees. After due consideration, the Delphi Strategy Board approved the termination of Salaried OPEB on February 3, 2009. Although a formal resolution of the Board of Directors was not required to terminate Salaried OPEB, the Board of Directors also received the presentation and was fully apprised. At a meeting of the Board of Directors on February 3, 2009, the Board unanimously concurred with the decision of the Delphi Strategy Board to terminate Salaried OPEB.

You can see that the Debtors had adequate time. They discussed the proposed termination of benefits at “several” meetings and received a detailed “presentation” (no mention of who prepared the presentation or how long they had to do it). Then the Delphi Strategy Board and the Board of Directors approved of the decision to pursue the termination of benefits on February 3, 2009. It is obvious that much time and thought went into the Debtor’s decision prior to February 3. The fact that the Motion was ready to file on February 4 and that the FedEx material was printed and packaged on or before February 4 for delivery on February 5, indicates that the decision had been made some time before February 3 and that the February 3 “decision and approval” was merely a formal confirmation of the prior decision. In this court of equity, does it not seem equitable that the retiree group should have adequate time and resources to prepare and present their side of the case? The Court should grant the 90 day stay that was requested by the retiree group.

5. In the recent past, the Debtor has acknowledged that employees and retirees require adequate time to prepare for changes in benefits. In March 2005, Delphi prepared a booklet titled “Changes in 2007 Post Retirement Health Care Coverage U.S. Salaried Health Care Program.” This booklet was distributed to employees and retirees with a letter of transmittal dated March 7, 2005. The debtor recognized the need for timely notification and the need for time to prepare for these changes. Employees and retirees were given more than 21 months notice for those changes that were to become effective January 1, 2007. In addition to the booklet and letter of transmittal, the Debtor prepared a sheet of Questions and Answers to go along with the distribution and discussion of the booklet. One of the Questions was “why do some retirees get a \$20,000 Health Savings Account and others get a \$10,000 Health Savings Account?” The answer was that Delphi recognized that those people who were already retired had less time to prepare for this change in benefits than younger employees and, therefore, needed the larger account to help them through the change. Why does the Debtor now think that the retirees do not need or deserve adequate time? The retirees DO NEED adequate time and the Court should grant the 90 day stay that was requested by the retiree group.

6. Here is a timetable of the proposed termination of benefits so far:

Feb 4, 2009 Debtor filed the Motion To Terminate Benefits

Feb 5, 2009 FedEx delivered notice to employees and retirees – the FedEx notices were not forwarded to retirees that were not at their home address (i.e., snowbirds).

Feb 23, 2009 Debtor (through their law firm Skadden, et.al.) filed the “DEBTORS’ OMNIBUS REPLY IN SUPPORT OF SALARIED OPED TERMINATION MOTION AND OBJECTION TO MOTIONS TO APPOINT OFFICIAL COMMITTEE OF RETIRED EMPLOYEES.” The hearing was scheduled for the next day; this left no time for any response. Their “OMNIBUS” was hardly “omnibus” it did not respond to all objections that had been filed and most of their responses to objections were not supported by fact. I have many comments about the “OMNIBUS REPLY” but that is not the subject of this Declaration, so I will not present them now.

Feb 24, 2009 The Motion was heard by the court.

c.Feb 28, 2009 (postmarked 02/27/2009) My wife, the owner of my life insurance, received two identical but confusing documents from the National Benefit Center regarding Life Insurance continuation.

c.Feb 28, 2009 I received a letter dated February 24, 2009 and postmarked 02/26/2009 from the National Benefit Center, Delphi Benefits. This letter said that Delphi will no longer provide Corporation contributions toward health care coverages in retirement for Delphi Salaried Retirees. It also included election forms for retirees to select continuing health care benefits at their own expense. The letter also stated that “For employees who retired from Delphi Corporation on or after October 1, 2007, you have the ability to elect COBRA Continuation Coverage and a COBRA Coverage election form has been included with this letter.” I am one of the retirees who is eligible for the COBRA Coverage, but there was no COBRA Coverage election form in my package. This package also included a mailing address for the retirees to send their election form and a FAX number that could be used instead of mail.

c.March 2, 2009 I received a letter dated February 26, 2009 and postmarked 02/27/2009 from DELPHI. This letter referenced the election package that had been sent. It also notified retirees about the limited Retirees Committee and the March 1, 2009 hearing date.

March 5, 2009 I received yet another letter from the National Benefit Center; this one was dated March 2, 2009 and postmarked 03/03/2009. The purpose of this letter was to inform retirees that the fax number provided in the earlier letter is incorrect. This letter provided the correct number for employees to use. It appears that the Debtors are also having problems keeping up with the accelerated implementation of this unethical change in benefits, even with their multitudes of service providers.

c. March 12, 2009 I received a document dated March 6, 2009 and postmarked 03/10/2009 from the National Benefit Center clarifying the confusing Life Insurance correspondence received circa February 28. Even though they sent the confusing information package to my wife, since she is the owner of the life insurance, they sent the clarification to me.

March 16, 2009 I phoned the National Benefit Center to inquire about my missing COBRA Coverage Election Form. The person I spoke with told me that the form had been mailed to me on March 12, then added that maybe it was late afternoon of March 12 and might not have gone out until March 13.

March 18, 2009 My March 18 mail has just been delivered, but my COBRA form has still not arrived.

March 18, 2009 The delphisalariedretirees.org web site has posted:

***COBRA KITS FOR THOSE THAT QUALIFY WILL BE OUT EARLY THIS WEEK (3/16/09).
THE US GOVERNMENT HAS PROMISED INFORMATION ON THE STIMULUS PACKAGE
SUBSIDIES BY 3/19/09***

Apparently there is some information in the Stimulus Package that could affect the decisions of the retirees. This information has not been provided to the retirees. This is just one more reason that the retirees need and deserve more time and that the Court should grant the 90 day stay that was requested by the retiree group.

This Declaration is dated March 18, 2009

Richard A. Devers

I will also send copies of this via first class mail to:

Delphi Corporation
Attn: General Counsel
5725 Delphi Drive
Troy, MI 48098

Skadden, Arps, Slate, Meagher & Flom LLP
333 West Wacker Drive
Suite 2100
Chicago, IL 60606
Attn: John W. Butler, Jr.